# Clash of Ideology, a comparison of two constitutions

## Russian Socialist Federation Soviet Republic (RSFSR) 1918 & Russian Federation 1993

**Abstract**. Constitution reflects the ideology, culture, aspiration and history of the people. Russia had its first constitution in 1918 , in the aftermath of the revolution and inspired by the Marxist ideology of a classless and void of private property ownership. It worked for decades and then in 1993, Russian Federation adopted a new constitution which apparently is more influenced by the western ideology of capitalism . How successful has been this experiment and how much of old ideology has been preserved in the new constitution apart from the role of military in both constitutions is the subject of this paper.

**Keywords**. Russia, Constitutions. Marxism. Capitalism. Military.

**Premise.**

Humans hypothetically seem to have some rules or laws from the onset of civilization, logically a tribal society ought to have some binding regulations to ensure a peaceful and progressive environment. We do not have precise date to locate them; however Hammurabi's laws (Hammurabi,1904) are regarded as one of the earliest. There are 282 laws dealing with false accusations, inheritance, marriage, property, agriculture to faulty constructions by contractors to faulty judgment by judges; they are quite logical and rational keeping in mind the time they represent. The laws have rewards and punishments ' a tooth for a tooth'; surprisingly there is no law regarding military or war. Hammurabi also relies upon divinity 'Shamash' for the legality of his laws ( p-157).

Greeks are the first one among civilizations to have record of constitutions and their making. Aristotle in his Constitution of Athens (Aristotle, 330 BC/1890) narrates the reasons and process of constitution making among the Greeks. He studied 158 constitutions of small city states and analyse them in order to reach perfect constitution for the people ( Amadio & Kenny , 2024). Aristotle was the first one to categorize the constitutions in terms of good and bad, for

him, either it was in shape of monarchy, aristocracy or a mixed one and he termed them as good whereas tyranny and democracy were the bad form of constitutions because in it the personal interests were kept higher. *Now it is evident that the form of government is best in which every man, whoever he is, can act best and live happily.* (Aristotle,330 BC/1890, p-2718). Romans have played an important part in the compilation of laws. The ancient 12 Tables ( Brittanica 2018) are one of the earliest collections of laws; these are not much different from the Hammurabi's laws. Both have death penalty for false accusations. On marriage they have similarity too. Under table 11, a man was not allowed to get married while in army before completing his training. Table 10 forbids women to beat their body or tear their clothes during a funeral. Under these laws killing of a thief at night was made legal but during daytime it was considered illegal. Emperor Justinian ordered compilations of all ancient laws in one code which is known as Justinian Code ( 550 A.D./ 2016). This was the very first constitution which was based on religious ideology, it only favoured Christianity and all others were deprived of all rights. ( Book I of Justinian Code).

Primarily with the advent of divine religions like Christianity and later Islam, the divine laws became the paramount structures of the society, all acts of human beings were judged according to the holy scriptures like adultery, economics, marriage, property, inheritance, selection of rulers and down to how to eat and what not to eat, what to wear and what not to wear.

In modern time, USA was the first state to adopt a constitution and as this constitution was the result of a revolution thus it is regarded as a kind of model. This American constitution vows to preserve the liberty and freedom as fundamental rights of a human being. It also distributes the powers between legislative and executive, adopts a two tier namely the Congress having House of Representatives and Senate. (Congress 1789/2024). American constitution does not delve into the rights of people neither it mentions any crimes other than treason and felony. It mostly concerns with the taxes, powers of president, elections, judiciary where it establishes a supreme court. On military, it favours a militia rather than a standing army. It is the militia which is task to repel any invasion and insurgency. ( Article I, Section,8).

Similarly, France in the same year 1789, adopted Declaration of the rights of man and the citizen , *ignorance, forgetfulness or contempt for the rights of man are the sole causes of*

*public misfortunes and of the corruption of governments* ( France 1789/2024) . Declaration had 17 Articles and the very first stated *Men are born and remain free and equal in rights. Social distinctions can only be based on common utility*. The declaration did not used the word military rather it employed the word Public Force (article 12) *The guarantee of the rights of man and of the citizen requires a public force*: French adopted a constitution in 1791 (France, 2024/1791).It was secular in nature as on its preamble it stated *The law no longer recognizes religious vows or any other obligation contrary to natural rights or the Constitution*. It abolished all titles and vows made in the name of religion and stated to treat everyone equal in front of law. It retained the king but treated him equal in front of the law.

Marx & Engels puts forward a new dimension to the injustice among humans, most notably in Communist Manifesto (1977/1848) where they treated the history as a class struggle between the masses, to them the entire process of history was not deterministic in nature rather it was exploitation of the working class by the rich. They further elaborated that due to industrialization a new breed of capitalist has emerged which they termed as bourgeoisie and the working class which have no means of production are bound to sell their labour, they call it as proletariat.

Marx ideas affected Europe and resultantly Communist Party in Russia was able to overthrow the monarchy of Czar in 1917 and as a result the first constitution of Russia was drafted and approved (1918/1977). The constitution along with the certain decrees are regarded as the fundamental laws of Russia and Soviet Union and as such are treated as the constitution. This constitution abolished owning the property and its inheritance thus eliminating the very basic nature of humankind; the greed. It took away all the privileges granted to the clergy or religion. In an ontological perspective it voiced similar to the French Constitution of 1791 with one major difference, Russian eliminated property and inheritance.

Communism prospered around the world most notably in China, however in Soviet Union it was discarded through a peaceful process of Glasnost and Perestroika (Lih,1987) by Soviet Union leader Mr Gorbachev; resultantly USSR collapsed in 1990 (Bunce,1993) and Russia emerged as an independent entity. Russian Federation after a tumultuous and troubled years marred with violence and uncertainty adopted new constitution in 1993 (Skach,2021) Thus

both constitutions of Russia were adopted under very different economic, political, and ideological environments.

**Aim of paper .**This paper attempts through lens of Critical Theory and Grounded Theory to analyze the fundamental principles common among these two constitutions and also to highlight the major differences among them. Major focus will be on the role of military, religion and judiciary.

**Theoretical Framework**

Clash of Civilisation hypothesis was put forward by Samuel Huntington in 1992/93, it coincided with the events in Russian Federation. Huntington theory was based upon clash among civilisation, same has been adopted with a wider perspective. Not only Russia as a Slavic race is a different civilisation from the rest of non Slavic races of Europe but also the fact that ideology of Marx remained its blood line whereas Capitalism as put forward by Adam Smith was and still is the main ideology of Western Civilisation and Europe. Therefore the adoption of new constitution by Russian federation was rather an adoption of the capitalist theory and thus it clashed with its old Marxist theory. The paradigms do not vanish with the spur of moment or with a change of name, they run deep into a nation's psyche for a long time and then probably they becomes hybrid I nature with the new one.

Rule of Law or constitutionalism is a theory and a way of life among the majority of countries in the world. This theory has at its root; the division of powers among the various branches of the state. its key assumption is that all citizens are by nature good and all elements of state and power are by design evil and corrupt. Thus it view and regard military as an usurper of human rights and judiciary as the saviour of humanity. Judiciary to a great extent has replaced the clergy of medieval era as the symbol of honesty and as a final authority on all matters of human morality. This itself is a western notion and it often clashes with historical and customary laws and traditions of a country specifically in Russia.

Critical Theory and Post Modernism are almost synonym with each other as both reject and questions the knowledge and axiom passed through generations. They regard all institutions as a form of oppression and an reflection of colonialism including judiciary. Critical theory lays great emphasis on the role of Historicism in understanding the present situation , it also

highlights the role of an individual and his culture as being different from others and thus to understand any phenomena it is rather useful to keep these factors as guiding principles.

**Methodology**

Due to the nature of the subject, a hybrid methodology is being adopted thus a combination of positivism and interpretivism. Humanism lays great stress on the primary sources; the primary sources are the constitutions itself and they are available from the Government of Russia and other organisations. They are the source of positivism and interpretivism is in the form of works of classical philosophers. Morality is an abstract value and cannot be reduced to numerical value.

**1918 Constitution.**

This constitution came with a history of bloodshed, the Czar was finally overthrown and royal family was massacred and a Bolshevik revolution also known as communist revolution was proclaimed. There have been certain meetings of the communist party also known as soviet congress in the months preceding the revolution thus the resolutions of these soviet congress became the basic law of the this constitution.( President Library 2024) *The declaration of rights of the laboring and exploited people (approved by the third All-Russian Congress of Soviets in January, 1918)) together with the Constitution of the Soviet Republic, approved by the fifth Congress, constitutes a single fundamental law of the Russian Socialist Federated Soviet Republic.* (Shakray & Krakovsky,2019). A constitutional commission was formed by Vladimir Lenin in January 1918 and a 16 member committee was formed on 1 April 1918 which put forward the draft which was adopted on 10 July 1918. It is worth highlighting that the Declaration of the rights of working class and exploited people was in fact put forward by Vladimir Lenin on 3 January 1918 ( Lenin 1972) .

It is rather a small constitution (Russian Constitution 1918 [RC 1918]) with six articles spread over seventeen chapters having 90 paragraphs. Constitution was not evolved in a traditional manner and as such it lacks the formality as seen in USA or French Constitutions which starts with emphasis on liberty and equality and distribution of powers etc. RSFSR constitution rather took over six years from 1917 - 1923, due to civil war to become formalized

and as such many decrees were added which collectively became and known as constitution or fundamental laws .

**Constitution of RSFSR 1918 .**

**Article 1**. (RC 1918)

a. Chapter 1-4. Declaration of Rights. Russia is declared to be a Republic of the Soviets of Workers' Soldiers', and Peasants' Deputies. All the central and local power belongs to these Soviets. For the purpose of attaining the socialization of land, all private property in land is abolished, and the entire land is declared to be national property and is to be apportioned among agriculturists without any compensation to the former owners, in the measure of each one's ability to till . As a first step toward complete transfer of ownership to the Soviet Republic of all factories, mills, mines, railways, and other means of production and transportation, the Soviet law for the control by workmen and the establishment of the Supreme Soviet of National Economy is hereby confirmed. Universal obligation to work is introduced for the purpose of eliminating the parasitic strata of society and organizing the economic life of the country.
b. For the purpose of securing the working class in the possession of the complete power, and in order to eliminate all possibility of restoring the power of the exploiters, it is decreed that all toilers be armed, and that a Socialist Red Army be organized and the propertied class be disarmed.

**Article 2**. Chapter 5. **General Provision.** Establishment of a dictatorship of the urban and rural proletariat and the poorest peasantry in the form of a powerful All-Russian Soviet authority, for the purpose of *abolishing the exploitation of men by men and of introducing socialism, in which there will be neither a division into classes nor a state of autocracy.* Furthermore within this article, free education for all was given, church was separated from state and every individual was granted the right to carry propaganda and anti-propaganda against the religion. Introduction of universal military training but only for the toilers and non-toilers to be employed on nonmilitary duties, and political asylum to foreigners was guaranteed.

**Article 3**. Chapter 6-12. **Organization of Soviet Power**. State power was declared to belong only to the working part of the population. It provided for the deprivation of political rights of non-working classes and groups. In suffrage, workers were given certain advantages over other classes; including the peasantry system of organization of power is deep rooted with w representative for each 25000 voters. There were 17 portfolios each headed by a commissar like foreign affairs, economics, education, army, navy etc.

**Article 4**. Chapter 13-15. **Rights to Vote**. Under the constitution every one irrespective of arce , sex or religion was allowed to vote provided he or she is 18 years of age. However clergy, monk and those people who were earning their livelihood without work, i.e through receipts from property were ineligible to stand in elections or vote.

**Article 5**.Chapter 16. **Budget**. This article deals with taxes and the budget allocation and allotment.

**Article 6**. Chapter 17. **Coat of Arms.** The coat of arms of the Russian Socialist Federated Soviet Republic consists of a red background on which a golden scythe and a hammer are placed' (crosswise, handles downward) in sun-rays and surrounded by a wreath, inscribed: Russian Socialist Federated Soviet Republic. Workers of the World, Unite!.

**Judiciary in 1918 Constitution**. Apparently there is no mentioning of judiciary in the constitution, however the decree of 24 November 1917 acts as the guidelines under which all existing judicial system was abolished and a system in which judges are elected through direct vote was introduced.

**Role of Military in RSFSR Constitution 1918**

Military played a fundamental and key role in the revolution, it did not physically initiated the revolution in February 1917 but by remaining neutral in the initial days and then showing sympathy and empathy with the working agitators at Petrograd; its role thus become pivotal. In the period leading to the October Revolution 1917, it took side with the Bolsheviks mainly die to the propaganda impact of Lenin. Under the constitution the power was being shared by the workers, peasants with the soldiers rather these three were the main pillars of the state. A socialist Red Army was sanctioned under Article I, Chapter II (g). Article III, Chapter VI which deals with the power in soviet republic , it states *The All-Russian Congress of Soviets of Workers', Peasants', Cossacks', and Red Army Deputies.* And this congress was the

supreme power in RSFSR. There were seventeen peoples commissars ( ministers) in the RSFSR, and navy and army were headed by separate commissars. This shows the importance being given to navy and army ( air force was not yet established in RSFSR). Under Article IV, Chapter XIII (b) which deals with the right to vote, the soldiers and sailors of army and navy were among those few who were given the right to vote. In Article VI, the flag of army and navy are given and they are different from the standard flag of RSFSR.

**1993 Constitution of Russia**

History repeats itself first as tragedy and then as farce, is a famous quote of Karl Marx ( 1852/2020) and it fitted very rightly on the Russia in 1990. The political and international environment in 1990 were not drastically different from the 1918 as far as Russian people are concerned. There was a hostile western civilization against its ideology of communism. On the other hand the communism had failed to deliver what it had promised. The economy was not as healthy as it was expected. The long and costly war in Afghanistan had acted as a catalyst for the Gorbachev ( the President and supreme leader of USSR) to initiate reforms and as a result of these reforms Russian Soviet Federated Socialist Republic (RSFSR) on 12 June 1990 adopted a resolution declaring sovereignty of its laws over the USSR laws. On 8 December 1991, USSR was officially dissolved and Commonwealth of Independent States (CIS) emerged as part of Belovezha Accord. Boris Yeltsin was elected as president of RSFSR.

**1993 Constitutional Crisis**

Yeltsin also introduced economic reforms and for their success he relied heavily upon the Presidential Decrees rather than on the parliament which was operating under the 1978 Constitution. The situation reached a point where Yeltsin had to dissolved the parliament on 21 September 1993 and retaliatory the parliament impeached him on 23 September. Yeltsin thus ordered the army to shell and attack the parliament and once again it was month of October when another violent demonstrations were held by the loyalist and anti Yeltsin supporters; over 100 were killed. (Sell,1993).

The constitution ( President Library 2024) was passed through a referendum on 12 December 1993. It has nine chapters and 137 articles. Each chapter deals with a separate subject which are as under.

Chapter One deals with basics of the constitutional system. Articles 1-16

Chapter II deals with Human and civil rights and freedom. Articles 17-64

Chapter III deals with Federal structure. Articles 65-79.

Chapter IV deals with President of the Russian Federation. Articles 80-93.

Chapter V deals with Federal Assembly. Articles 94-109.

Chapter VI concerns with Government of Russian Federation. Articles 110-117.

Chapter VII is about Judicial Authority . Articles 118-129

Chapter VIII deals with local self government. Articles 130-133

Chapter IX deals with constitutional amendments and revision of constitution. Articles 134-137.

**1993 Russian Federation Constitution. Ontological features.**

Constitution envisages a bicameral house, lower house comprises of Duma with 450 members and upper house the Council of Federation 178 members (article - 95). Constitution is liberal in every sense, it provides free and compulsory education (article - 43), free health care (article -41), article 39 provides care for elderly, unemployed and disabled people. Care of children has been entrusted to both parents under article 38. Equality of gender, religious freedom, working hours, right to leisure are all incorporated into this constitution. Military training is also imposed with an exception that a person can avoid it under his/her religious obligation (article 59). Right of voting is granted at the age of 18 however convicted persons are deprived of this right (article 32). These are constitutional provisions which are almost identical to 1918 Constitutions. From the onset, constitutions declares Russia to be a social state *State support shall be provided for the family, maternity, fatherhood and childhood, to the disabled and to elderly citizens*,(article 7)

Major difference from the 1918 Constitution is in the fact that private property is allowed , Articles 8 and 9 states *In the Russian Federation the integrity of economic space, free flow of*

*goods, services and financial resources, support of competition, and the freedom of economic activity shall be guaranteed.* Furthermore, under new constitution (article 13), Russia declares itself to be free on any ideology *No ideology shall be proclaimed as State ideology or as obligatory.* However this new constitution also retains the secular nature of the state as in the past, under article 14, *The Russian Federation shall be a secular state. No religion may be established as the State religion or as obligatory*.

This constitution lays great emphasis on personal rights, freedom, dignity, equality of gender, privacy, inviolability of home, freedom of expression. All of these are philosophical and abstract in nature. There are very obligations on the individuals, like paying of taxes. To defend the fatherland, to obey constitution, to preserve culture and nature. Taking care of elderly parents is an obligation and so is care of children.

1993 constitution was framed mainly to appease the western civilization in an effort to be part of them rather than to be associated with past and communism. Thus incorporation of articles that stipulates the supremacy of international laws over the local laws. The two terms limitation of president to four years is almost a copy of USA constitution.

**Role of Military and Judiciary in 1993 Constitution**

In all western constitutions namely the USA, French, British and German there is hardly any role mentioned that of military; however usually there are separate chapters on the role of judiciary and they are given immense constitutional powers regarding tenure , appointments and so on. This is primarily based upon the notion and custom of having three branches of a state namely the legislative, executive and judiciary ; yet military which is the rather most important feature as there is hardly any nation which has not faced war or is not concerned about its security thus there are militaries in every state. Military is akin to sovereignty of a state , without military the concept of independence is a debatable issue.

In the Russian constitution there is a separate chapter, ( Chapter VII) with over a dosen articles, which states that a judge should be minimum of 25 years of age with a higher degree in law, he cannot be removed, his appointments are governed through a lengthy procedure and his removal even more cumbersome. There are various types of courts with a separate constitutional court for interpretation of constitution.

On the other hand military is treated with a non-entity, there is no mentioning as who will appoint the generals, what is going to be their tenure, who can remove them, what is the criteria of being in military and what rights do they enjoy. Article …mentions that defense of fatherland is responsibility of all, article …highlights the military service but with a clause that any one basing upon his religious beliefs can avoid it. Article….stipulates that president can wage war and peace and is commander in chief of military. Yet when compared to judiciary, there seems to be a void in constitution regarding the dignity, tenure, protection, and other key factors. Military is not being treated independently; it seems to be under all the three tiers of state, judiciary can overrule any decision of military basing upon the constitution in terms of equal rights of citizen, privacy, freedom of expression and so on. Under the constitution any person even holding dual citizenship can be a part of the military. Constitution does not differentiate between the war heroes and convicted criminals like rapists ; they both are equal in the eyes of the law, thus a patriot is reduced to nothing.

Role of military, if granted equal to the judiciary can allow the military generals to analyses laws passed by the legislative or judiciary in terms of security and can voice their concern. They can formulate laws to increase the security of state and they (laws) can be scrutinized by the legislative. There is an inbuilt fear and apprehension about the military, that they can usurp the powers (article…) but no such apprehension is about the judiciary, which is almost independent to over rule the legislative and executive even on matters of national security. In the 1918 Constitution, the military was given a special treatment and judiciary was almost obscured, and in this 1993 constitution it has been reversed. Similarly police, one of the key element of not only Russian but that of any state deserves a treatment in constitution, regarding its own working and independence; it is also missing in this constitution.

**Amendments to 1993 Constitution.**

The first major amendment was incorporated in 2008 which extended the tenure of Duma and the president to five and six years. In 2014 another constitutional amendment was incorporated but the major amendments came in 2020. From 2008 onwards the Russian relations with west started deteriorating over the Georgia and Crimea annexations thus there was a hostility from western scholars and politicians along with human rights group over the amendments. The two main key points were the flexibility or extension of presidential terms

which thus allowed Vladimir Putin to stand again in 2024 elections and secondly the negation of gay marriage thus accepting only marriage between opposite sex as legal. Nominations and removal of judges by the president was a key amendment in the constitution.

Crisis erupted in 2012/2013 when the European Court of Human Rights (ECtHR) in its judgement 0f July 4, 2013 (ECtHR, 2013) ruled that Russia should allow disfranchisement of prisoners thus giving rights of voting to them, which under article 32 (3) is not allowed. The case is interesting as oth the applicants namely Anchugov and Gladkov were convicted of multiple offenses including murder and were serving sentences in prison and yet they applied to ETcHR through application No. 11157/04 and No.151629/05; stating that their human rights have been violated by not allowing them to vote in elections and it is contrary to the European Convention on Human Rights (ECHR 1950). European Court (ECtHR) gave judgement in favour of convicts and asked Russia to amend its constitution. This created a constitutional crisis in Russia. (European Parliament 2020).

Another amendment that stirred an international storm was the upholding of Russian laws over the international laws as already stipulated in the constitution. *The amended Article 7911 blocks the application of international treaties and agreements that are contrary to the constitutional principles and/or limit rights and freedoms of man and citizen found in the Constitution and prohibits the enforcement of international court decisions contradicting the Constitution, thus codifying previous Constitutional Court decisions*. .(Kalinichenko & Kochenov,2021).

**Comparisons of Constitutions.**

Both constitutions reflect the tide of time in their wordings and ontology. There is not standard pattern or format for constitution writing and it is visible in these two constitutions. In 1918, the Articles are given under which chapters are enumerated whereas in 1993 it is the other way around. In the 1918 constitution a separate article ( article 6) is devoted to the design and pattern of Coat of Arms whereas in 1993 ( article …) it is left to the federal law to design it.

Fundamentally, as far as basic human rights are concerned like free health, education, housing, care of elders, care for women, freedom of expression, free legal or justice; they are enshrined in both constitutions thus both retained the social ontology.

Fundamental difference is the ideology; the Bolshevik constitution was based upon the Marx and its interpretation by Lenin. The Declaration of Rights was given by Lenin in November 1917 and it became the basic brick of 1918 constitution. On the other hand the 1993 lacked such an ideology and is based more upon the western concept of constitutionalism. For Marxist, the history is a narrative of class struggle in which one class has been exploiting the workers and peasants thus they created a constitution which for the first time in social history abolished religion, class, nobility , property, inheritance and even military. They relied upon an idealism in which the workers , peasants or proletariat will be void of basic human limitations of greed and will progress to a society in which there is no evil because for them evil is another name of capitalism or accumulation of wealth.

A constitution is adopted mainly to have a check on the abuse of powers by the individuals. This abuse of power is also rooted in the notion that an individual by nature is greedy and tyrant. Without any check, at the most an individual can accumulate wealth and favors his own clan or friends; it is still a minimal impact on the vast majority of population. It is the war that affects the entire nation and Russian constitution of 1918 and 1993 have both failed to address this issue. To a great extent none of the constitutions in last century have been able to prevent and protect the population from the menace of war. There is no check on the initiation of war by the executive. In Europe after the adoption of Russian constitution in 1993, France, United Kingdom and Italy all have waged wars in Libya, Iraq, and Afghanistan and even in Europe itself (Bosnia). All this happened despite an opposition by the population, none of the democratic governments resorted to asking the public opinion before entering into a war. Russia also entered into limited wars against Crimea and Ukraine which is still ongoing after a year, constitution has failed to offer any check on this.

**Conclusion**

Russia considers itself to be part of Europe and has been striving to be a member of European Union .Under President Boris Yeltsin the efforts were magnified and the Constitution of 1993 reflects this mindset. European Union and European Parliament have adopted certain conventions most notably the 1950 Convention of human Rights which forbids capital punishment. Same has been incorporated into the Russian Constitution of 1993. Similarly, the 1993 Constitutions through its various articles created a constitutional fog under which the

international law apparently became sovereign. This notion was partially dispelled by the Russian Constitutional court through its judgements. However the inference that has been drawn is that , international or European conventions on human rights and other aspects are double edge sword and their judgements have created and are bound to create a negative impact of Russia among the other countries. The Anchugov,Gladkov Vs Russia is a classic example where two convicted murderers sentenced in 1993, were able to rock the entire constitutional system of Russia by using the European Convention on Human rights through the European Court on the plea that they were not allowed to cast vote in 1998 elections and thus their human rights as mentioned in the convention has been violated.

Russian politics since 1993 mainly revolves around one man Vladimir Putin, he has been in power since 1998 and there seems to be no end to his reign or rule. Thus the very nature of constitutionalism, to have a check on the tyranny has failed. Putin is not a tyrant, he has been elected according to the constitution which he himself has amended. This is not much different from the General De Gaulle's amendments in French Constitution in 1960s. The cult of personality seems to be an integral part of the Russian culture, in 1918 it was Lenin followed by Stalin and now it is Putin.

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